

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JAMES WILLIS,

Plaintiff,

v.

Case No. 06-CV-53

**JO ANNE B. BARNHART,
Commissioner, Social Security Administration,**

Defendant.

DECISION AND ORDER

On January 12, 2006, the plaintiff James Willis (“Willis”) filed his complaint, in this Court, seeking review of a decision of the defendant Commissioner of Social Security Administration denying Willis’s request for disability benefits. Accompanying the complaint is Willis’s application and affidavit for leave to proceed *in forma pauperis* (IFP), which the Court now considers.

To authorize a litigant to proceed *in forma pauperis*, the Court must make two determinations: (1) whether the litigant is unable to pay the costs of commencing the action; and (2) whether the action warrants dismissal because it is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. §§ 1915(a)(1) & (e)(2).

Willis's affidavit reveals that he is currently unemployed and the only member of his household. He owns his own residence. Willis's monthly income consists of \$150 in food stamps and energy assistance. He has \$50 in cash and checking accounts, and states that he is dependent upon his sisters. He claims no other valuable property or assets. Willis's identified monthly expenses include payments of \$123 to WE Energies, a \$252 mortgage, and a \$21 telephone bill. Willis avers that he owes \$2,800 in credit card debt. Based on the information contained in the submitted affidavit, the Court is satisfied that Willis is unable to pay the filing fee and costs associated with commencing his action.

Next, the Court inquires whether Willis's action warrants dismissal because it is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). Willis's complaint alleges that the Commissioner's conclusions and findings of fact were not supported by substantial evidence, involved improper speculation, and did not comport with applicable legal standards or Social Security Rulings. (Compl. ¶¶ 7, 9, 10.)

For relief, Willis asks the Court to find that he is entitled to disability benefits under the Social Security Act. Willis also requests an award of attorney fees under the Equal Access to Justice Act because the Commissioner's adjudication of his application for benefits was not substantially justified.

Willis, based on his complaint, has stated a claim for relief that is neither frivolous nor malicious and, if proven, may entitle him to relief. Accordingly, the Court will grant his request to proceed IFP.

**NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY
ORDERED THAT:**

Willis's Application to Proceed *In Forma Pauperis* (Docket No. 2) is **GRANTED**.

Dated at Milwaukee, Wisconsin this 1st day of May, 2006.

BY THE COURT

s/ Rudolph T. Randa

Hon. Rudolph T. Randa
Chief Judge